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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 STANLEY RIMER, BRIAN O'KEEFE,
9 JOHN ROSKY, RICHARD LANCASTER,

10 Plaintiffs,

11 v.

12 LUCINDA COUMOU, *et al.*,

13 Defendants.

Case No. 3:17-cv-00281-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
WILLIAM G. COBB

14 Before the Court is the Report and Recommendation of United States Magistrate
15 Judge William G. Cobb (ECF No. 20) ("R&R" or "Recommendation") relating to Plaintiffs'
16 Applications to Proceed *In Forma Pauperis* (ECF Nos. 3, 10) and *pro se* First Amended
17 Complaint (ECF Nos. 14-1 to 14-4). Plaintiffs filed an objection thereto on September 6,
18 2017 ("Objection") (ECF No. 24). Plaintiffs have also filed a motion to amend their
19 complaint (ECF No. 25); and Plaintiff Richard Allen Lancaster has filed a motion for a
20 free copy of the proposed second amended complaint (ECF No. 27).¹

21 This Court "may accept, reject, or modify, in whole or in part, the findings or
22 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
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24 ¹The proposed second amended complaint ("SAC") is about 70 pages in length.
25 Federal civil pleading is notice pleading. *E.g.*, *Starr v. Baca*, 652 F.3d 1202, 1212-16
26 (9th Cir. 2011). The notice pleading requirements of Rule 8(a) can be violated not only
27 "when a pleading says *too little*," but also "when a pleading says *too much*." *Knapp v.*
28 *Hogan*, 738 F.3d 1106, 1109 (9th Cir. 2013), *cert. denied*, 135 S. Ct. 57 (Oct. 6, 2014);
see also McHenry v. Renne, 84 F.3d 1172, 1179-80 (9th Cir.1996) (affirming a dismissal
under Rule 8, and recognizing that "[p]rolix, confusing complaints such as the ones
plaintiffs filed in this case impose unfair burdens on litigants and judges"). The SAC
says, far, too much, and does so unnecessarily.

1 timely objects to a magistrate judge's report and recommendation, then the court is
2 required to "make a *de novo* determination of those portions of the [report and
3 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). In light of Plaintiff's
4 objection, the Court engages in a *de novo* review to determine whether to adopt
5 Magistrate Judge Cobb's Recommendation.

6 The Magistrate Judge recommended that the Court grant Plaintiffs' applications to
7 proceed *in forma pauperis*.² The Magistrate Judge further recommended that this case
8 be dismissed and made the additional finding that, as amendment appears futile, the
9 dismissal should be with prejudice. The Court agrees with the Magistrate Judge's
10 reasoning. Plaintiffs argue that the Magistrate Judge failed to apply the proper standard
11 by accepting their allegations as true. To the contrary, the Magistrate Judge assumed
12 the truth of the allegations, but found that Plaintiffs fail to state a claim as a matter of law.
13 In addition to the reasons stated in the R&R, Plaintiff cannot state a claim even
14 considering the allegations in the SAC because they are essentially appealing to this
15 Court the state court's decisions relating to their petitions for writ of habeas corpus.
16 However, under the *Rooker-Feldman* doctrine, federal district courts may not exercise
17 subject matter jurisdiction over a de facto appeal from a state court judgment. See
18 *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 414–17 (1923); *D.C. Ct. of Appeals, et al. v.*
19 *Feldman*, 460 U.S. 462, 482 (1983). State court litigants like Plaintiffs may only achieve
20 federal review of state court judgments by filing a petition for a writ of certiorari in the
21 Supreme Court of the United States. *Feldman*, 460 U.S. at 482. Accordingly, this Court
22 finds good cause to adopt the Magistrate Judge's Recommendation in full.

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25 ²Plaintiff Rimer objects to the amount identified in the R&R, which was based on
26 information provided by Rimer, because his financial statute has changed. (ECF No. 24
27 at 2.) Rimer referred to an updated financial statement, but did not include the particular
28 exhibit number. Because the Court grants Rimer's application to proceed *in forma*
pauperis based on the information he previously provided, his changed financial status is
irrelevant.

1 It is therefore ordered, adjudged and decreed that the Report and
2 Recommendation of Magistrate Judge William G. Cobb (ECF No. 20) is accepted and
3 adopted in its entirety.

4 It is further ordered that Plaintiffs' Application to Proceed *In Forma Pauperis* (ECF
5 Nos. 3, 10) are granted; however, Rosky is required to pay the initial partial filing fee in
6 the amount of \$28.44; O'Keefe is required to pay the initial partial filing fee in the amount
7 of \$13.10; and Rimer is required to pay the initial partial filing fee in the amount of \$5.33.
8 Lancaster is not required to pay an initial partial filing fee. Thereafter, whenever Plaintiffs'
9 prison accounts exceed \$10, they will be required to make monthly payments in the
10 amount of twenty percent of the preceding month's income credited to his account until
11 the full \$350 filing fee is paid.

12 It is further ordered that Plaintiffs' motion to amend (ECF No. 25) is denied.

13 It is further ordered that Plaintiff Richard Allen Lancaster's motion for a free copy
14 of the proposed second amended complaint (ECF No. 26) is granted. The Clerk of Court
15 is directed to send Plaintiff Lancaster one copy of the proposed second amend
16 complaint along with exhibits which comprise of 535 pages.

17 It is further ordered that the Clerk file the Complaint (ECF No. 14-1 to 14-4).

18 It is ordered that this action is dismissed with prejudice.

19 The Clerk is instructed to enter judgment and close this case.

20 DATED THIS 23rd day of October 2017.

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23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
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